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Constituency accounts are a peculiarity in campaign finance law. Montana and the District of Columbia are the only places found, thus far, by open government advocates that presently allow elected officials to collect and use money in this way. Colorado had a similar situation with "office accounts"; however, these were outlawed altogether in 2006.

Most states have a "public" fund for "constituent outreach" although that may be defined differently in different states. In many states, it is quite generous, paying for a district office and district staff mailing costs, phone, a set number of "newsletters" etc. Where public funding is insufficient, some states allow legislators to use campaign funds to supplement the public funds. In some states, the office holder's campaign account is considered a valid source for money to pay for constituent outreach, and there are no significant public funds set aside for this work.

Some feedback from Common Cause State Organizers on constituency outreach/accounts issue:

Florida

In Florida, the office holder can raise funds into a legislators campaign account and continued contributions are legal though subject to certain rules, such as one that bans legislators from accepting donations during the sessions (**see attached article from South Florida Sun-Sentinel-Contributions legal, but raising eyebrows**).

Georgia

In Georgia, the office holder's campaign account is a valid source for money to pay for constituent outreach. The law has a phrase that says that contributions shall be utilized only to defray ordinary and necessary expenses... incurred in connection with such candidate's campaign for elective office or such public officer's fulfillment or retention of such office (21-5-33).

Most public officers have a discretionary fund proscribed by statute. It is a small amount which is higher in positions of leadership. There is considerable flexibility in how that money can be used, with one of the options being communicating to constituents.

Maine

In Maine, the general practice is that candidates pay for constituent outreach through their campaign committees (\$250 limit; periodic disclosure) or leadership PACs (no contribution limit; periodic disclosure).

Massachusetts

In Massachusetts public funds are more limited and legislators typically dip into campaign funds to pay for these kinds of expenses. Legislators get a travel allowance which is computed by distance to the state house and then an additional \$720 per month for miscellaneous expenses including constituent services. They also have an "office budget" although that is secret and varies between legislators.

Oregon

Currently, Oregon provides public funding for these activities in the budget. If need be, legislators can supplement these funds by using campaign funds.

Colorado

Office accounts, a relatively new phenomenon in Colorado, allowed legislators to accept unlimited contributions from any source, including lobbyists, during the legislative session. There were extremely limited reporting requirements for the contributions, and no requirement to report how the money was spent. Senate Bill 51, passed in Colorado last year, prohibits legislators from accepting cash or in-kind contributions for so-called "office accounts."

These office accounts were anything but small petty-cash holdings. Reports filed in January revealing office account contributions during 2005 showed legislators garnered nearly \$175,000 in contributions. One Senator amassed over \$20,000 in contributions, including two \$5,000 checks. In addition, a phantom non-profit, Research and Democracy, gave \$83,000 worth of in-kind contributions in the form of newsletters mailed to constituents on behalf of vulnerable House Democrats.

Lawmakers follow through on reform

Three bills dealing with legislative office accounts, lobbyist disclosure and election reform are positive steps and should be signed by Gov. Bill Owens.

Article Last Updated: 05/09/2006 11:11:39 PM MDT

State lawmakers took a smart step toward good government when they passed a bill to rein in unchecked cash and gifts for legislative office expenses.

Senate Bill 51 would prohibit all cash gifts to office accounts and would limit in-kind donations to \$50. The bill, passed in the late-night hours of the legislature's final day, received bipartisan support, and lawmakers should be proud of themselves. Now Gov. Bill Owens needs to give it the green light and make Colorado proud.

SB 51 closes the last big loophole in a campaign finance law passed by Colorado voters in 2002. That law capped contributions from both individuals and political committees in statewide races and placed voluntary spending limits on candidates. But the loophole enabled elected officials to continue taking unlimited amounts of cash from lobbyists under the guise of defraying office expenses. Colorado has been one of five states that doesn't limit cash gifts to lawmakers.

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Separate from the office accounts, the bill also requires lawmakers to report gifts such as sports tickets quarterly instead of once a year.

During a 2006 session in which some 673 bills were introduced, lawmakers also toughened reporting rules for lobbyists and clarified election rules. The session ended at 11:22 p.m. Monday, two days shy of the legal deadline. It was the second straight year that the Democratic-controlled legislature finished its work early.

We'd hoped to see a stronger lobbyist reform bill emerge, one with a one-year cooling-off period before an exiting lawmaker could become a lobbyist and a requirement that lobbyists report contributions to lawmakers of \$100 or more. But legislators struck both provisions from the final version of House Bill 1149, which nevertheless will require lobbyists to be more forthcoming about the legislation they are pushing.

The legislature also made important revisions and clarifications to election rules in Senate Bill 170. Among other things, the bill allows centralized vote centers to be used and allows voters to cast provisional ballots electronically. The bill also clarifies that voters who move to a new precinct within 29 days of an election can use provisional ballots to vote for federal and statewide offices "for which the elector is eligible to vote." Rules created by the secretary of state in 2004 allowed provisional ballots to count only for president and vice president.

All three bills deserve to become law and we would urge Owens to sign them or let them pass without veto.

Senator spends \$21,000 in gifts to run office

CARLYN MITCHELL THE GAZETTE

DENVER - A Castle Rock state senator collected almost \$21,000 in cash gifts last year, and critics say that makes him the poster child for tighter contribution rules.

In Colorado, legislators can accept virtually unlimited amounts of cash gifts into office accounts as long as they are reported once a year to the Secretary of State. What legislators do not have to report, however, is how that cash is spent.

"A lobbyist can give 10 grand to a legislator the day of, before, or after a vote and we're not going to know about it for a year," said Pete Maysmith, executive director of Colorado Common Cause. "That's just outrageous."

Sen. Tom Wiens, the leading recipient of non-campaign donations in the General Assembly, said the money was spent on constituent communication, travel expenses, office supplies and additional staff. He says his high standards for carrying out his elected position justify the sum in his office account last year.

"I do a lot of constituent service," Wiens said. "That's not always the same model of service that everyone has."

Wiens' cash gifts surpass all other legislators' by about \$10,000. Gov. Bill Owens' total was \$55,000.

Wiens' money came from 59 contributors disclosed on a 20-page gift and honoraria report Wiens turned in to the Secretary of State's office last week.

Included are two \$5,000 gifts, one from Larry Romrell of Franktown and the other from G.P. Ranches.

Lobbying giants such as COPIC Insurance also contributed to Wiens' account, though not during the 2005 General Assembly.

Maysmith reports the Castle Rock lawmaker was an aggressive fundraiser for his office account, sending out letters to lobbyists suggesting up to \$5,000 contributions.

Most members of the Colorado Springs delegation reported accepting far less in the way of gifts, and most of it came in the form of sports tickets and golf outings.

The opportunity to accept gifts from lobbyists during the session has some lawmakers pushing legislation to ban cash gifts altogether, essentially closing office accounts and, thus, the loophole. The groundswell comes at a time when there's a growing national congressional influence-peddling scandal involving lobbyist Jack Abramoff, who pleaded guilty to federal charges.

Senate Bill 51 would prohibit elected officials from receiving cash gifts and would make accepting money a misdemeanor.

The bill passed out of the Senate State, Veterans and Military Affairs committee this week on a 5-2 vote. Sens. Doug Lamborn, R- Colorado Springs, and Ron May, R-Colorado Springs, voted against the measure.

This is the third year Sen. Ron Tupa, D-Boulder, has sponsored such a bill. Last year's version was later amended to allow for office accounts for legislators and was vetoed by Owens.

Tupa says legislators such as Wiens who are taking advantage of the accounts fuel his push for a ban on office accounts this year.

"I never would have envisioned that anybody would look at this loophole in law and say 'this loophole now allows me to take thousands of dollars, but it doesn't influence my vote and it doesn't influence me in any way, shape or form,' " Tupa said. "That's a ridiculous argument which the public would never believe."

Wiens's use of the money for staff and constituent communications should come out of general state funds rather than private donors' pockets, Tupa said.

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"So he is basically making an argument that we need additional help performing this job, and if that is true, and almost everybody here will admit to that, then the appropriate place to fund that is the same place we fund our salaries," Tupa said.

Several Democrats, including Rep. Mike Merrifield of Manitou Springs, received thousands in office cash from Research on Democracy, a group that paid for constituent mailers.

Tupa and other Democrats would like to see a statute for newsletters and other forms of constituent communications to be paid for out of general funds.

Such legislation would solve problems suggested by "lame duck" legislators who would not be able to fund town hall meetings or travel expenses out of campaign accounts.

Wiens will not support any ban on cash gifts.

"Having the additional staff and the ability to communicate with my constituents is a real positive thing," Wiens said.

Wiens' spending of his office accounts shows that the money goes to things other than constituent contact, Maysmith says.

Regardless, many argue that constituent contact can still be viewed as a form of campaigning.

"We saw vulnerable Democratic Senate seats see the most office account contributions," Maysmith said. "Of course it's not a coincidence."

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FLORIDA LEGISLATURE

Contributions legal, but raising eyebrows

By Mark Hollis
Tallahassee Bureau

March 27, 2007

TALLAHASSEE - On the day before the start of the two-month session during which legislators are considering ways to cut property taxes, a \$25,000 check from the Florida Association of Realtors was deposited into a campaign account controlled by state Sen. Jeff Atwater.

The Palm Beach Gardens Republican, who is seeking the Senate presidency in 2008, represents parts of Palm Beach and Broward counties. He's also a proponent for property tax cuts and other changes the real estate agents have at the top of their 2007 legislative agenda.

In the six days prior to session, Atwater's "Preserve the American Dream" committee received 17 checks totaling \$101,000 from people and groups interested in bills facing the Legislature. The contributions -- the largest one being from Realtors -- are legal though subject to certain rules, such as one that bans legislators from accepting donations during the session.

The Web site for the committee, which formed Jan. 30, says its focus is combating "runaway property taxes, skyrocketing insurance rates, rising costs of homes, uncontrolled government spending, and inefficient excessive regulation."

More than half the donations to Atwater's committee were submitted Feb. 28. They include a \$10,000 check from a political committee controlled by another Republican state senator, Mike Bennett of Bradenton. That account is fueled with contributions from various special interests, including money from the home-construction and real estate industries. Bennett is seeking the Senate presidency in 2010 and is considered an Atwater ally in the Legislature.

Legislators purport to create such committees to raise money -- unrestricted by state and federal laws limiting the size of donations to candidates -- to help them stay in touch with their constituents by using the money for newsletters and travel expenses. But members seeking leadership posts, like Atwater and Bennett, also use the accounts to curry favor with other members by shifting money to one another's accounts.

Records show that at least a dozen of Florida's 40 current state senators have formed such committees since 2004. The groups often are cloaked in catchy names and clever acronyms. Some members of the Florida House, such as Rep. Adam Hasner, R-Delray Beach, also have organized so-called Committees of Continuous Existence. But unlike the Senate, the House does not post its own record of which representatives have them.

Government watchdogs and some legislators say the pre-session activity of these committees is inappropriate. These critics say the committees are a means by which legislators scratch one another's backs politically and skirt laws limiting contributions to their own re-election campaigns.

"It's corrupt, as far as I'm concerned," said Ben Wilcox, director of Common Cause of Florida, a government watchdog group. "They are evading the \$500 limit on direct contributions, and they have become a way for people who are seeking power in either [the House or Senate] to reward their loyal supporters."

Atwater defends the committees as another means by which he can remain a powerful voice in the Legislature. He insists the donations do not lock him into voting a certain way or put him under any particular political pressure. He also says some of the money he has accepted will be spent toward publicity this summer promoting whatever tax-law changes the Legislature approves.

"Whatever we do is probably going to take a dialogue with the citizens in the form of a ballot initiative," Atwater said. "There probably will be [spending by the committee] soon to [public-relations experts] who would help us think about how we would have that dialogue."

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Nancy Riley, president of the Florida Association of Realtors that donated to Atwater's group, says a publicity campaign may be needed to fend off opposition from city and county officials statewide should legislators pass a constitutional amendment that requires voters' approval. Those public officials have been concerned about tax cuts slashing local-government budgets.

An advertising campaign on tax cuts also could be a boon to Atwater's political career. Nothing would prohibit the American Dream committee from buying ads that feature Atwater's name, face or political feats. Some donors to the groups, including South Florida legislative lobbyists, say they don't mind how the money gets spent -- so long as their clients benefit from the financial exchanges.

"I gave to Bennett's group to have total discretion as he pleases," said Bob Levy, a Miami-based lobbyist.

"There's no question that Jeff Atwater will be the next Senate president. So why would it not be in Mike Bennett's best interest to support Jeff Atwater. And it's in my interest to see that Mike Bennett is in a good position to where he can be of assistance to me and my clients."

Some legislators are appalled by the use of these fundraising committees and want reforms. House Democratic Leader Dan Gelber, of Miami Beach, said the donations are "making a mockery" of campaign finance limits and the legislative gift ban. He filed a bill last year that would prohibit the use of the committees. The bill has been filed this session by state Rep. Keith Fitzgerald, D-Sarasota, and state Sen. Charlie Justice, D-Tampa. Says Fitzgerald: "It's kind of like legalized money laundering that we're trying to stop."

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